

§1026-M. Regional Economic Development Revolving Loan Program

1. Established. The Regional Economic Development Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses that need assistance in order to create or retain jobs. The authority shall administer the program on behalf of participating eligible economic development corporations or entities. The Regional Economic Development Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest earnings on the fund and any amounts repaid to the program by participating corporations. Amounts in the fund must be used by the authority for purposes authorized in this section. The authority shall reserve an amount not less than \$300,000 for loans for quality child care projects and may make loans directly to those projects.

[PL 1999, c. 401, Pt. OOO, §1 (AMD).]

2. Eligible corporations. The fund is open to local, regional and statewide nonprofit or governmental economic development corporations or entities that are capable of providing financial assistance to businesses in order to create and protect jobs, as well as revitalize downtowns and build strong communities and a sustainable economy, referred to in this section as "corporations." In the case of loans to quality child care projects, the authority may also provide loans directly to eligible borrowers. To be eligible for assistance from the fund:

A. A corporation must apply to the authority to participate in the fund. The application must describe the corporation and its funding sources, the region or regions it serves, its methods and criteria for qualifying borrowers, including any targeted lending and economic development strategies, its expertise in management assistance and financing of small and emerging businesses, the method by which it will leverage funds from other sources in an amount at least equal to 2 times the amount requested from the fund and other information the authority determines necessary; [PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

B. A corporation must have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service loans and assist its clients or it must have a strategy for real estate development including commercial and mixed-use real estate and community facilities; [PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

C. The corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate with other business assistance programs and employment training and social assistance programs; [PL 1999, c. 401, Pt. OOO, §1 (AMD).]

D. The corporation must propose performance measurements and goals and a process for monitoring compliance with proposed measurements and goals. The authority shall assist corporations in developing loan or equity-like debt underwriting and administrative capacity and in portfolio monitoring and servicing and may establish one or more advisory boards or committees to assist corporations; and [PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

E. A child care project must apply to the authority or to a corporation and meet the eligibility criteria for a borrower. [PL 1999, c. 401, Pt. OOO, §1 (NEW).]

[PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

3. Disbursements from fund. If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region or regions served by the corporation and the expected demand for loan funds in that region or those regions; [PL 2013, c. 605, §2 (AMD); PL 2013, c. 605, §9 (AFF).]

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

C. Whether an eligible corporation will serve statewide or will serve a geographic area or segment of potential business borrowers not served by other applicants. [PL 2013, c. 605, §2 (AMD); PL 2013, c. 605, §9 (AFF).]

A corporation may not receive more than \$3,500,000 from the fund. Funds must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and the authority. Funds must be disbursed to the corporation in the form of a loan or a grant. The authority may, in its discretion, disburse fund amounts in one lump sum or periodic disbursements.

[PL 2013, c. 605, §2 (AMD); PL 2013, c. 605, §9 (AFF).]

4. Contract. A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes; [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

B. The corporation shall review applications for financial assistance, determine the feasibility of the application and approve or deny the application, which determination is final in the case of loans under \$150,000 or in the case of denials of any amount; [PL 2009, c. 131, §3 (AMD).]

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest; [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

E. Other terms and conditions as the authority determines appropriate. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

[PL 2009, c. 131, §3 (AMD).]

5. Administrative costs. A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee of up to 2% and may use interest earnings not to exceed 7% of each loan annually on loans to cover reasonable operating costs, including loan fund management, technical assistance and education. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.

[PL 2013, c. 605, §3 (AMD); PL 2013, c. 605, §9 (AFF).]

6. Financing terms and conditions. Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed \$350,000 to a borrower, including an affiliated entity, and approval of the authority is required for any loan in excess of \$150,000. Loans or portions of loans to a quality child care project to be used solely for lead abatement may not exceed \$15,000. [PL 2013, c. 605, §4 (AMD); PL 2013, c. 605, §9 (AFF).]

B. Loans of \$50,000 or more for borrowers other than quality child care projects may not exceed 1/2 of the net new funds being provided to a borrower. Loans of less than \$50,000 and loans for

quality child care projects may be for the total amount of new funds being provided to the borrower. [PL 2013, c. 605, §5 (AMD); PL 2013, c. 605, §9 (AFF).]

C. The authority and each corporation shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not be for a term longer than 20 years and:

- (1) Loans to a quality child care project must bear a rate of interest not greater than 5%; or
- (2) Loans to any other eligible borrower may not bear a rate of interest greater than the prime rate of interest plus 7%. [PL 2013, c. 605, §6 (AMD); PL 2013, c. 605, §9 (AFF).]

D. When necessary, a corporation may provide for flexible repayment terms and may require additional payments tied to the borrower's financial success. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

E. A corporation shall require collateral for loans when available, but may subordinate to loans from other lenders. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).] [PL 2013, c. 605, §§4-6 (AMD); PL 2013, c. 605, §9 (AFF).]

7. Eligible projects. In order for a project or borrower to be eligible for financial assistance under the program, the following criteria must be met.

A. The business for which funds are requested has 100 or fewer employees or annual sales of \$10,000,000 or less, and it consists of or involves at least one of the following:

- (1) Manufacturing technologies, such as value-added wood products, specialty fabricated metal and electronic products, precision manufacturing and use of composites or advanced materials;
- (2) Technologies, such as advanced information systems, advanced telecommunications, energy and environmental products and services;
- (3) Value-added natural resource enterprises and biological and natural resource technologies, such as aquaculture, marine technology, agriculture, forestry products and biotechnology;
- (4) A business converting from defense dependency;
- (5) A business significantly engaged in export of goods or services to locations outside the State;
- (6) A business that dedicates significant resources to research and development activities;
- (7) Other businesses with 15 or fewer employees;
- (8) A child care project that includes any business that, for compensation, provides a regular service of care and protection for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children;
- (9) A business significantly engaged in commercial and mixed-use real estate and community facilities; and
- (10) A business significantly engaged in serving tourists, such as in the areas of outdoor recreation, culture and heritage and hospitality.

Notwithstanding the requirements of this paragraph, until June 30, 2012, a project or a borrower that is eligible for loan insurance under section 1026-A is eligible for financial assistance under the program. [PL 2013, c. 605, §7 (AMD); PL 2013, c. 605, §9 (AFF).]

B. The borrower is unable to obtain funding needed for the project from other public and private sources, including the personal resources of the owners of the business borrowing from the fund. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

D. The loan is not used to make distributions to or for the benefit of an owner of the business borrowing from the fund or a related entity. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

[PL 2013, c. 605, §7 (AMD); PL 2013, c. 605, §9 (AFF).]

8. Priorities. Among eligible applicants, a corporation shall give priority to businesses and projects with the potential of meeting one or more of the following objectives.

A. The financing will help the business pursue a business that adds significant value to raw materials or inventory. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being lost. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

[PL 2013, c. 605, §8 (AMD); PL 2013, c. 605, §9 (AFF).]

9. Reports. A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each project, the amount, type and terms of assistance the project received, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.

[PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

10. Audit. The authority shall review annually each corporation's participation in the program and may, in its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.

[PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

11. Written procedures. The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

[PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

SECTION HISTORY

PL 1993, c. 722, §C1 (NEW). PL 1993, c. 722, §C2 (AFF). PL 1999, c. 401, §§0001-3 (AMD). PL 2001, c. 639, §§1,2 (AMD). PL 2003, c. 195, §1 (AMD). PL 2007, c. 683, Pt. B, §1 (AMD). PL 2009, c. 131, §§2-6 (AMD). PL 2011, c. 11, §1 (AMD). PL 2013, c. 605, §§1-8 (AMD). PL 2013, c. 605, §9 (AFF).

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